

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
MICHAEL BAZIK,

Plaintiff,

-against-

SMITHTOWN CENTRAL SCHOOL DISTRICT,

Defendant.  
-----X

**Index No. :**

**SUMMONS**

Plaintiff designates  
SUFFOLK COUNTY  
as the place of trial

The basis of this venue is  
Plaintiff's residence at the  
time of the commencement of  
this action

TO THE ABOVE NAMED DEFENDANT:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after service is complete if this summons is not personally delivered to you with the State of New York); and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
September 25, 2019

BY:

  
\_\_\_\_\_  
John J. Meehan, Esq.  
JOSEPH & NORINSBERG, LLC  
*Attorneys for Plaintiff*  
225 Broadway, Suite 2700  
New York, N.Y. 10007  
(212) 227-5700

TO:    Smithtown Central School District  
      26 New York Avenue  
      Smithtown, New York 11787

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**VERIFIED COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff MICHAEL BAZIK, by his attorney JOSEPH & NORINSBERG, LLC, bring this action against defendant SMITHTOWN CENTRAL SCHOOL DISTRICT ("SMITHTOWN"), alleging, on personal knowledge as to him and on information and belief as to all other matters, as follows:

**PRELIMINARY STATEMENT**

This is an action brought under the Child Victims Act brought as a result of Plaintiff MICHAEL BAZIK being sexually molested by his seventh grade Spanish teacher, Edward Condon. On multiple occasions, Condon would require plaintiff to stay after class under threat of failing class, pull his penis out and masturbate until completion. Condon also repeatedly put his hands down plaintiff's pants and touched his genitals. All this these unlawful actions done in school, and in his classroom. Plaintiff MICHAEL BAZIK has suffered severe, and permanent emotional and psychological trauma as a result of these events, and will continue to suffer psychological scars from this abuse every day of his life.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

**JURISDICTION AND VENUE**

1. This Court has personal jurisdiction over the Defendant pursuant to CPLR §§ 301 and 302, in that the Defendant resides in New York.

2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

3. Venue for this action is proper in the County of Suffolk, pursuant to CPLR § 503, in that the plaintiff is a resident of the County of Suffolk at the time of the commencement of this action.

**CHILD VICTIMS ACT**

4. Each of Plaintiff's causes of action is timely pursuant to the Child Victims Act that was enacted on February 14, 2019. Plaintiff alleges that the Defendant committed intentional or negligent acts or omissions which resulted in Plaintiff suffering physical, psychological or other injuries or conditions as a direct and proximate result of conduct which constitutes a sexual offense committed against a child less than eighteen years of age, as defined in New York Penal Law § 130. This action, moreover, has been filed not earlier than six months after, and not later than one year and six months after, the effective date of the newly added CPLR § 214-g.

**PARTIES**

5. Plaintiff MICHAEL BAZIK is an individual currently residing the County of Suffolk, in the City and State of New York.

6. At all times hereinafter mentioned, Defendant SMITHTOWN owns, maintains, operates, and controls Great Hollow Middle School located at 150 Southern Blvd # 1, Smithtown, New York, which was at all relevant times known as the "Great Hollow Junior High School" ("Great Hollow").

7. At all times hereinafter mentioned, the defendant “SMITHTOWN” was and still is a municipality or an agency of a municipality or a Department of a municipality organized and existing under and by virtue of the Education Law of the State of New York and authorized to do business in the State of New York.

8. At all times hereinafter mentioned, “SMITHTOWN”, authorized, supervised, administered, and oversaw all aspects of the hiring, supervising, firing, training and administration at Great Hollow and had a duty to safeguard the welfare, security, safety, wellbeing and health of the students such as the plaintiff, MICHAEL BAZIK, during the years he was a student at Great Hollow.

9. At all relevant times, Defendant SMITHTOWN created, oversaw, managed, controlled, directed and operated Great Hollow.

10. At all relevant times, Defendant SMITHTOWN managed, supervised, employed, directed and/or controlled staff, counselors, teachers and coaches assigned to work at Great Hollow, including Edward Condon (“Condon”).

11. At all relevant times, staff, counselors, and teachers, including Condon, assigned to Great Hollow were agents, managers, directors, or employees of Defendant SMITHTOWN.

### **STATEMENT OF FACTS**

12. Plaintiff MICHAEL BAZIK attended Great Hollow for junior high school, from approximately 1968-1970.

13. During the times relevant to the allegations set forth herein, Defendant SMITHTOWN was responsible for overseeing, managing, controlling, directing and operating Great Hollow.

14. While in seventh grade, plaintiff MICHAEL BAZIK, who was then twelve (12)

years old, was repeatedly molested by his Spanish teacher, Edward Condon.

15. Through his position at, within, or for defendant SMITHTOWN, Condon was put in direct contact with Plaintiff MICHAEL BAZIK.

16. Edward Condon would make plaintiff remain in class under threat of bad grades, after the rest of class was dismissed, and would then commit sexual assaults upon plaintiff.

17. Condon would pull his penis out in front of plaintiff and masturbate until completion.

18. Condon would go into plaintiff's trousers and touch his genitals.

19. Edward Condon would pull plaintiff out of class, take plaintiff into a secluded area, and show him child pornography, and tell him that he would commit the acts shown in the pictures.

20. Condon used his position of authority over plaintiff, gained through his employment as a teacher at Great Hollow, which granted him access to Defendant SMITHTOWN's young students, to sexually assault, sexually abuse, and/or have sexual contact with Plaintiff in violation of the laws of the State of New York.

21. At all times material hereto, Condon was under the management, supervision, employ, direction and/or control of Defendant SMITHTOWN.

22. Defendant SMITHTOWN knew, and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Condon who repeatedly sexually abused Plaintiff.

23. Upon information and belief, it was common knowledge amongst the children, staff, employees, and teacher at the Great Hollow that Condon would frequently molest young boys.

24. Marvin Austin, a classmate of plaintiff's, was also repeatedly sexually molested by

Edward Condon. Condon would force Mr. Austin to perform oral sex on him, and on multiple occasions, Condon forcibly performed oral sex on Mr. Austin. Tragically, Mr. Austin took his own life decades ago.

25. Defendant SMITHTOWN had the responsibility to manage, supervise, control and/or direct the staff, employees, and teacher who served at the Great Hollow, and specifically had a duty not to aid known sexual predators such as Condon by assigning, maintaining, and/or appointing them to positions with access to minors.

26. Defendant SMITHTOWN had a duty to Plaintiff to ensure that Defendant SMITHTOWN did not offer opportunities for known sexual predators to approach and assault vulnerable children. Defendant SMITHTOWN knew and/or should have known that Condon used his position as a teacher to harm minor children, including Plaintiff, and to form an acquaintance that could be, and was, used to provide opportunities for sexual abuse.

27. In complete dereliction of its duties, SMITHTOWN repeatedly allowed staff members, and teachers such as Condon, to remove its children away from other students and take them to locations without other staff members being present.

28. Plaintiff suffered personal physical and psychological injuries and damages as a result of Defendant's actions, as well as other damages related thereto, and continues to suffer from these damages to this day.

29. As a direct result of Defendant's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income

and/or loss of earning capacity.

**FIRST CAUSE OF ACTION**  
**(Negligent Hiring/Retention/Supervision/Direction)**

30. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

31. Defendant SMITHTOWN at all relevant times represented or otherwise indicated to the parents of the defendant SMITHTOWN's children that minor children would be physically safe while in the presence of the counselors, staff, and teachers assigned to Great Hollow. Defendant entered into an express and/or implied duty to provide that when Plaintiff was a minor and left in the presence of counselors, staff, and teachers, Plaintiff would be kept safe and that that counselors, staff, and/or teachers would not sexually abuse Plaintiff.

32. Defendant SMITHTOWN owed a duty of care to all minor persons, including Plaintiff, who was likely to come in contact with its employees, agents, coaches, and/or teachers or were under the supervision of their employees, agents, coaches, and/or teachers to ensure that their employees, agents, coaches, and/or teachers did not use their assigned positions to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York, specifically Article 130 of the New York Penal Law.

33. Defendant SMITHTOWN, knew or should have known, of Condon's propensity for the conduct which caused Plaintiff's injuries prior to, or about the time of, the injuries' occurrence.

34. The sexual abuse of children by adults, including staff, counselors and teacher, is a foreseeable result of negligence.

35. Condon sexually assaulted, sexually abused and/or had sexual contact with Plaintiff while working in his capacity as a teacher for Defendant SMITHTOWN.

36. Defendant SMITHTOWN, negligently recruited, retained, directed, and supervised Condon, as it knew or should have known that Condon posed a threat of sexual abuse to children, including Plaintiff herein.

37. Defendant SMITHTOWN, was negligent in failing to properly supervise Condon.

38. Defendant SMITHTOWN, was negligent in failing to properly vet Condon for his position as a teacher.

39. At all times material hereto, Defendant SMITHTOWN, was willful, wanton, malicious, reckless and/or outrageous in its disregard for the rights and safety of Plaintiff, and demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, Defendant's conduct gives rise to punitive damages.

40. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

41. By reason of the foregoing, the Defendant SMITHTOWN, is liable to the Plaintiff, for compensatory damages, and punitive damages, together with interest and costs.

**SECOND CAUSE OF ACTION**  
**(Negligence/Gross Negligence)**

42. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

43. At all times material hereto, with regard to the allegations contained herein, Condon was under the supervision, direction and/or control of Defendant SMITHTOWN.

44. Defendant SMITHTOWN, owed Plaintiff, at all relevant times, a seventh-grader, a duty to protect him from Condon's sexual deviancy and the consequential damages, both prior to and/or subsequent to the abuser's misconduct.

45. Defendant SMITHTOWN, knew, or was negligent in not knowing, Condon posed



a threat of sexual abuse to children, (including Plaintiff herein).

46. The acts of Condon were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his appointment, assignment, and/or agency with Defendant SMITHTOWN.

47. Defendant SMITHTOWN's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

48. Defendant SMITHTOWN gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others; failed adequately to supervise the activities of Defendant's employees, volunteers, and teacher; permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, with instrumentalities under their control; and allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

49. At all times material hereto, Defendant SMITHTOWN's actions and omissions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, and amounted to conduct equivalent to criminality. At all times material hereto, moreover, Defendant SMITHTOWN demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, Defendant's conduct gives rise to punitive damages.

50. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

51. By reason of the foregoing, Defendant SMITHTOWN is liable to the Plaintiff, for compensatory damages, and punitive damages, together with interest and costs.

**THIRD CAUSE OF ACTION**  
**(Breach of Non-Delegable Duty)**

52. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

53. Plaintiff, when he a minor, was placed in the care and supervision of the defendant SMITHTOWN for the purposes of, *inter alia*, providing plaintiff with a safe environment in which to live, learn, and grow. There existed a non-delegable duty of trust between Plaintiff and Defendant SMITHTOWN.

54. Plaintiff was a vulnerable minor when placed within the care of the Defendant SMITHTOWN.

55. As a consequence, Defendant SMITHTOWN was in the best position to prevent the sexual abuse of Plaintiff, to learn of that sexual abuse of Plaintiff and stop it, and to take prompt steps to provide that Plaintiff received timely therapy to address the harm he suffered resulting from their sexual abuse. Such prompt steps would have mitigated the extent of lifetime suffering Plaintiff has endured.

56. By virtue of the fact that Plaintiff was sexually abused as a minor child at his junior high school, entrusted to the care of Defendant SMITHTOWN, Defendant breached its non-delegable duty to Plaintiff.

57. At all times material hereto, Condon was under the supervision, direction and/or control of Defendant SMITHTOWN.

58. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

59. By reason of the foregoing, Defendant SMITHTOWN is liable to the Plaintiff for compensatory damages, and punitive damages, together with interest and costs.

**FOURTH CAUSE OF ACTION**  
**(Breach of Fiduciary Duty)**

60. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

61. While he was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendant SMITHTOWN. During the times that Plaintiff was entrusted to Condon, Condon, was under the supervision and control of Defendant SMITHTOWN.

62. There existed a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendant SMITHTOWN. This relationship was based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the Defendant. This entrustment of the Plaintiff to the care and supervision of the Defendant, while the Plaintiff was a child, required Defendant SMITHTOWN to assume a fiduciary relationship and to act in the best interests of the Plaintiff and to protect his due to his infancy and vulnerability.

63. Pursuant to their fiduciary relationship, Defendant SMITHTOWN was entrusted with the well-being, care, and safety of Plaintiff.

64. Pursuant to their fiduciary relationship, Defendant SMITHTOWN assumed a duty to act in the best interests of Plaintiff.

65. Defendant SMITHTOWN breached its fiduciary duties to Plaintiff.

66. At all times material hereto, Defendant SMITHTOWN, was willful, wanton, malicious, reckless and/or outrageous in its disregard for the rights and safety of Plaintiff, and demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, Defendant's conduct gives rise to punitive damages.

67. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

68. By reason of the foregoing, the Defendant SMITHTOWN is liable to the Plaintiff for compensatory damages, and punitive damages, together with interest and costs.

**FIFTH CAUSE OF ACTION**  
**(Negligent Infliction of Emotional Distress)**

69. Plaintiff repeat and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

70. As described above, the actions of Defendant SMITHTOWN, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

71. Defendant SMITHTOWN's actions endangered Plaintiff's safety and caused him to fear for his own safety.

72. As a direct and proximate result of Defendant SMITHTOWN's actions and/or inactions, which included but were not limited to, negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein; including but not limited to, severe mental and emotional distress, which continue to afflict him to this day.

73. By reason of the foregoing, the Defendant SMITHTOWN is liable to the Plaintiff, for compensatory damages, and punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION**  
**(Breach of Duty *in Loco Parentis*)**

74. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

75. While he was a minor, Plaintiff was entrusted by his parents to the control and

supervision of Defendant SMITHTOWN. During the times that Plaintiff was entrusted to Defendant SMITHTOWN, Condon, under the supervision and control of Defendant SMITHTOWN. Defendant SMITHTOWN owed a duty to children entrusted to them (including Plaintiff) to act *in loco parentis* and to prevent foreseeable injuries.

76. Defendant SMITHTOWN breached its duty to act *in loco parentis*.

77. At all times material hereto, Defendant SMITHTOWN was willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in its disregard for the rights and safety of Plaintiff, and demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, its conduct gives rise to punitive damages.

78. As a direct result of Defendant SMITHTOWN's conduct, Plaintiff MICHAEL BAZIK has suffered the injuries and damages described herein, and continues to suffer from such damages to this day.

79. By reason of the foregoing, Defendant SMITHTOWN is liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**WHEREFORE**, Plaintiff MICHAEL BAZIK hereby demands judgment against the Defendant on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proven at trial, but, in any event, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this matter;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law; and
- E. Awarding such other and further relief as to this Court may seem just and proper.

Dated: New York, New York  
September 25, 2019

BY: 

John J. Meehan, Esq.  
JOSEPH & NORINSBERG, LLC  
*Attorneys for Plaintiff*  
225 Broadway, Suite 2700  
New York, N.Y. 10007  
(212) 227-5700

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**SUMMONS AND COMPLAINT**

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**JOSEPH & NORINSBERG, LLC**

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